

110TH CONGRESS
1ST SESSION

H. R. 868

To amend the Internal Revenue Code of 1986 to allow a married couple who operates a unincorporated business as co-owners to file separate self-employment tax returns.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2007

Mr. DOGGETT (for himself, Mr. BECERRA, Mr. BLUMENAUER, Mr. DAVIS of Illinois, Ms. DELAURO, Mr. FILNER, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. HINOJOSA, Mr. HOLT, Mr. KIND, Mr. LARSON of Connecticut, Mr. LEWIS of Georgia, Mr. McDERMOTT, Mr. MCGOVERN, Mr. MEEK of Florida, Mr. MOORE of Kansas, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Mr. KENNEDY, Mr. PASCRELL, Ms. SCHWARTZ, Mr. SHERMAN, Mr. STARK, Mr. THOMPSON of California, Mrs. JONES of Ohio, Ms. VELÁZQUEZ, and Mr. RODRIGUEZ) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a married couple who operates a unincorporated business as co-owners to file separate self-employment tax returns.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Small Business
5 Tax Fairness Act of 2007”.

1 **SEC. 2. UNINCORPORATED BUSINESSES OPERATED BY**
 2 **HUSBAND AND WIFE AS CO-OWNERS.**

3 (a) IN GENERAL.—Section 761 of the Internal Rev-
 4 enue Code of 1986 (defining terms for purposes of part-
 5 nerships) is amended by redesignating subsection (f) as
 6 subsection (g) and by inserting after subsection (e) the
 7 following new subsection:

8 “(f) QUALIFIED JOINT VENTURE.—

9 “(1) IN GENERAL.—In the case of a qualified
 10 joint venture conducted by a husband and wife who
 11 file a joint return for the taxable year, for purposes
 12 of this title—

13 “(A) such joint venture shall not be treat-
 14 ed as a partnership,

15 “(B) all items of income, gain, loss, deduc-
 16 tion, and credit shall be divided between the
 17 spouses in accordance with their respective in-
 18 terests in the venture, and

19 “(C) each spouse shall take into account
 20 such spouse’s respective share of such items as
 21 if they were attributable to a trade or business
 22 conducted by such spouse as a sole proprietor.

23 “(2) QUALIFIED JOINT VENTURE.—For pur-
 24 poses of paragraph (1), the term ‘qualified joint ven-
 25 ture’ means any joint venture involving the conduct
 26 of a trade or business if—

1 “(A) the only members of such joint ven-
2 ture are a husband and wife,

3 “(B) both spouses materially participate
4 (within the meaning of section 469(h) without
5 regard to paragraph (5) thereof) in such trade
6 or business, and

7 “(C) both spouses elect the application of
8 this subsection.”.

9 (b) NET EARNINGS FROM SELF-EMPLOYMENT.—

10 (1) Subsection (a) of section 1402 of such Code
11 (defining net earnings from self-employment) is
12 amended by striking “and” at the end of paragraph
13 (15), by striking the period at the end of paragraph
14 (16) and inserting “; and”, and by inserting after
15 paragraph (16) the following new paragraph:

16 “(17) notwithstanding the preceding provisions
17 of this subsection, each spouse’s share of income or
18 loss from a qualified joint venture shall be taken
19 into account as provided in section 761(f) in deter-
20 mining net earnings from self-employment of such
21 spouse.”.

22 (2) Subsection (a) of section 211 of the Social
23 Security Act (defining net earnings from self-em-
24 ployment) is amended by striking “and” at the end
25 of paragraph (15), by striking the period at the end

1 of paragraph (16) and inserting “; and”, and by in-
2 serting after paragraph (16) the following new para-
3 graph:

4 “(17) Notwithstanding the preceding provisions
5 of this subsection, each spouse’s share of income or
6 loss from a qualified joint venture shall be taken
7 into account as provided in section 761(f) of the In-
8 ternal Revenue Code of 1986 in determining net
9 earnings from self-employment of such spouse.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to taxable years beginning after
12 the date of the enactment of this Act.

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